MONTANA LEGISLATIVE HISTORY

Chapter 33 1987

Bill H 177 S _____ Original bill & history ✓ C

H. Committee on Business & Labor			S. Committee on Business & Labor		
Hearing Date(s)	1/21	C	Hearing Date(s)	2/05	C
	1/21	C		2/07	C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

TRANSMITTED TO SENATE
1/22 REFERRED TO STATE ADMINISTRATION
1/28 HEARING
1/29 COMMITTEE REPORT--BILL CONCURRED
2/02 2ND READING CONCURRED 49 0
2/04 3RD READING CONCURRED 50 0

RETURNED TO HOUSE
2/07 SIGNED BY SPEAKER
2/09 SIGNED BY PRESIDENT

2/09 TRANSMITTED TO GOVERNOR
2/13 SIGNED BY GOVERNOR
CHAPTER NUMBER 14 EFFECTIVE DATE: 2/13/87

HB 177 INTRODUCED BY JONES, ET AL.
SMALL TRACT FINANCING ACT TRUSTEE QUALIFICATIONS REVISION

1/13 INTRODUCED
1/13 REFERRED TO BUSINESS & LABOR
1/21 HEARING
1/21 COMMITTEE REPORT--BILL PASSED
1/23 2ND READING PASSED 98 0
1/24 3RD READING PASSED 94 0

TRANSMITTED TO SENATE
1/26 REFERRED TO BUSINESS & INDUSTRY
2/05 HEARING
2/07 COMMITTEE REPORT--BILL CONCURRED
2/11 2ND READING CONCURRED 48 0
2/13 3RD READING CONCURRED 50 0

RETURNED TO HOUSE
2/18 SIGNED BY SPEAKER
2/18 SIGNED BY PRESIDENT

2/18 TRANSMITTED TO GOVERNOR
2/20 SIGNED BY GOVERNOR
CHAPTER NUMBER 33 EFFECTIVE DATE: 2/20/87

HB 178 INTRODUCED BY COBB, ET AL.
SPLASH APRONS OR FLAPS ON ALL 4-WHEEL OR FRONT-WHEEL DRIVE VEHICLES

1/13 INTRODUCED
1/13 REFERRED TO HIGHWAYS & TRANSPORTATION
1/27 HEARING
1/27 TABLED IN COMMITTEE

HB 179 INTRODUCED BY JONES, ET AL.
PROHIBITING ACQUISITION OF INSURED BANKS BY CERTAIN COMPANIES

1/13 INTRODUCED
1/13 REFERRED TO BUSINESS & LABOR
1/21 HEARING
1/28 COMMITTEE REPORT--BILL PASSED AS AMENDED
1/30 2ND READING PASSED 91 4
1/31 3RD READING PASSED 93 1

TRANSMITTED TO SENATE
2/02 REFERRED TO BUSINESS & INDUSTRY
3/16 HEARING

HOUSE BILL NO. 177

INTRODUCED BY JONES, C. SMITH

IN THE HOUSE

JANUARY 13, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & LABOR.
JANUARY 21, 1987	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 22, 1987	PRINTING REPORT.
JANUARY 23, 1987	SECOND READING, DO PASS.
JANUARY 24, 1987	ENGROSSING REPORT.
	THIRD READING, PASSED.
	TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 26, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
FEBRUARY 7, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
FEBRUARY 11, 1987	SECOND READING, CONCURRED IN.
FEBRUARY 13, 1987	THIRD READING, CONCURRED IN. AYES, 50; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

FEBRUARY 16, 1987	RECEIVED FROM SENATE.
	SENT TO ENROLLING.

HB BILL NO. 177

INTRODUCED BY James C. Smith

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE QUALIFICATIONS OF TRUSTEES UNDER THE SMALL TRACT FINANCING ACT OF MONTANA; AMENDING SECTION 71-1-306, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 71-1-306, MCA, is amended to read:

"71-1-306. Qualifications of trustee -- successor trustee. (1) The trustee of a trust indenture under this part shall be:

(a) an attorney who is licensed to practice law in Montana;

(b) a bank, trust company, or savings and loan association authorized to do business in Montana under the laws of Montana or the United States; or

(c) a title ~~insurance or abstract company~~ insurer or title insurance agent or agency authorized to do business in Montana under the laws of Montana.

(2) The beneficiary may appoint a successor trustee at any time by filing for record, in the office of the clerk and recorder of each county in which the trust property or some part thereof is situated, a substitution of trustee.

The substitution shall identify the trust indenture by stating the names of the original parties thereto and the date of recordation and the book and page where the same is recorded, shall state the name and mailing address of the new trustee, and shall be executed and acknowledged by all of the beneficiaries designated in the trust indenture or their successors in interest. From the time the substitution is filed for record, the new trustee shall be vested with all the power, duties, authority, and title of the trustee named in the trust indenture and of any successor trustee."

NEW SECTION. Section 2. Effective date. This act is effective on passage and approval.

-End-

INTRODUCED BILL
HB-177

Form CS-32
Rev. 1985

STATUS SHEET

50TH LEGISLATIVE SESSION

BUSINESS AND LABOR COMMITTEE

HOUSE BILL NUMBER	ENTERED COM. DATE	DATE CONSIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CONCURRED IN DATE	BE NOT CONCURRED IN DATE	BE CONCURRED IN AMENDED DATE	BE NOT CONCURRED IN AS AMENDED DATE
98	1/12/87	1/12/87	1/15/87			1/15/87					
119	1/12/87	1/15/87	tabled 2/11/87								
122	1/12/87	1/16/87	1/16/87	1/16/87							
129	1/12/87	1/16/87	1/29/87	1/29/87							
130	1/12/87	1/16/87	1/29/87			1/29/87					
133	1/12/87	1/19/87	1/27/87			1/27/87					
142	1/13/87	1/20/87	1/27/87			1/27/87					
143	1/13/87	1/20/87	2/2/87			2/2/87					
147	1/14/87	1/22/87	tabled 1/22/87								
165	1/14/87	1/20/87	1/23/87			1/23/87					
166	1/14/87	1/21/87	1/21/87	1/21/87							
170	1/16/87	1/21/87	1/21/87	1/21/87							
177	1/14/87	1/21/87	1/21/87	1/21/87							
179	1/14/87	1/21/87	1/28/87			1/28/87					

e a separate sheet for Senate Bills, House Bills, and Resolutions.

MINUTES OF THE MEETING
BUSINESS AND LABOR COMMITTEE
50TH LEGISLATIVE SESSION

January 21, 1987

The meeting of the Business and Labor Committee was called to order by Chairman Les Kitselman on January 21, 1987 at 8:00 a.m. in Room 312-F of the State Capitol.

ROLL CALL: All members were present.

HOUSE BILL NO. 179 - Prohibiting Acquisition of Insured Banks by Certain Companies sponsored by Rep. Tom Jones, House District No. 4, Kalispell. Rep. Jones stated that the purpose of the bill is to prohibit bank holding companies and commercial companies from acquiring half-banks in Montana, banks that do not offer both demand deposits and commercial loans. He commented that these are controversial institutions that are referred in the banking industry as nonbank banks, and are undermining the federal laws that have historically governed the banking industry. He said because the half-banks do not meet the definition of a bank as an institution that offers both demand deposits and commercial loans, they are able to escape the federal regulations through the definition loopholes.

PROPONENTS

Roger Tippy, representing the Montana Independent Bankers Association. Mr. Tippy stated that the purpose of the bill is to identify the "nonbank bank", or "half-bank" as it is called in the industry, and specify that neither a bank holding company nor any other company could own, control, and operate such half-banks. He said that Congress has tried to seal the loophole but have not succeeded, and the issue is whether the states will keep their regulatory powers over banking or lose them with a lax attitude. Mr. Tippy submitted a rewritten version of the bill that would amend the original version that would prohibit the holding company from owning any insured bank because that holding bank does not have checking accounts, etc., itself; the amendment would avoid that impact. Exhibit No. 1.

Ron Ahlers, Executive Vice President, First Security Bank, Bozeman, and Vice President of the Montana Independent Bankers Association. Mr. Ahler cited four reasons why the non-bank bank loophole is a bad public policy. He said that it breaches the separation between banking and commerce set forth in the Glass-Steagall and Bank Holding Company Acts; and the loophole destroys the limitations on interstate deposit-taking and bank ownership embodied in the McFadden

QUESTIONS

Rep. Simon asked Mr. Morrison if taxes were due and are not received, do they have the right to file a warrant for restraint. Mr. Morrison responded that they have a waiting period, that notices are sent of the taxes due, and after the waiting period they file the warrant for restraint. He said an exception would be if the collection of the taxes would be in jeopardy if they didn't move immediately.

Rep. Simon asked if the taxes were not paid by a person owing the tax and the Department did not file the warrant, and in the meantime other people filed a lien against that person thinking there were no other liens, would the Department have priority if six months later they file a lien. Mr. Morrison responded they would have priority.

Rep. Simon asked what incentive the Department of Revenue would have to prepare the liens and these warrants to make sure they get filed in a timely manner. Mr. Morrison responded that their incentive is to collect the tax; the sooner they get there the better chance they have to collect the tax which is their job.

Rep. Glaser asked if the time frame could be several months before the Department files the warrant of restraint, the other people doing business with the individual owing the money would be aware that there may be a problem. Mr. Morrison responded that was correct.

Rep. Hanson asked if a title company that was searching the title for a piece of property would have access to records showing that a person is behind with their withholding taxes. Mr. Morrison responded that the records are not public, but a person could ask the seller to get a letter from the Department certifying that the taxes have been paid.

CLOSING

Rep. Jones made no further comments.

HOUSE BILL NO. 177 - Small Tract Financing Act Trustee Qualifications Revision sponsored by Rep. Tom Jones. Rep. Jones said that Mr. Solberg would comment.

PROPONENTS

Loren Solberg, title insurance business, Kalispell. Mr. Solberg stated this bill deals with the small tract financing act which was enacted in 1960 to provide a simpler method of securing financing on residential properties and by its terms allows a title to be conveyed to a trustee to secure a financial obligation. He said this bill is to

redefine those people in the land title business evidencing either being a title insurer or a title insurance agency or agent. He said that usually the title insurance agency is named as trustee on trust ventures, and they want to prevent the validity of that trusted venture being challenged because there is no statutory definition for abstract companies.

OPPONENTS

None.

QUESTIONS

None.

CLOSING

Rep. Jones made no further comments.

EXECUTIVE ACTION - January 21, 1987 - 9:50 a.m.

ACTION ON HOUSE BILL NO. 177

Rep. Nisbet moved that House Bill No. 177 DO PASS. The motion carried unanimously.

ACTION ON HOUSE BILL NO. 170

Rep. Brandewie moved that House Bill No. 170 DO PASS. The motion carried with Rep. Cohen, Rep. Nisbet, Rep. Driscoll and Rep. Hanson opposed.

Discussion on House Bill No. 177 and No. 170.

The Committee's discussion and intent on House Bills No. 177 and 170 was that they felt the Department of Revenue and the Division of Unemployment Insurance in the Department of Labor and Industry should not have lien priority and should not be able to retroactively collect on a lien from an innocent third party. The Departments should seek other means to file liens.

During the discussion on House Bill No. 170 Chairman Kitselman referred to the statute and said that it answered the questions, and he felt the intention of the bill was to prioritize the lien.

ACTION ON HOUSE BILL NO. 166

Rep. Brandewie moved that House Bill No. 166 DO PASS. The motion carried with Rep. Cohen and Rep. Driscoll opposed.

STANDING COMMITTEE REPORT

January 21 19 87

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report HOUSE BILL NO. 177

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

REP. LES KITSELMAN Chairman

SMALL TRACT FINANCING ACT TRUSTEE QUALIFICATIONS REVISION

FIRST reading copy (WHITE color)

VISITORS' REGISTER

BUSINESS AND LABOR COMMITTEE

BILL NO. HB 177 DATE January 21, 1987

SPONSOR Rep. Tom L. Jones

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
GENE PHILLIPS	KALISPELL	X	
Teresa Feathers	Helena	X	
BRAD Stratton	Bozeman	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

CS-33

REPORT LCB4

MONTANA LEGISLATIVE COUNCIL BILL STATUS SYSTEM
FINAL COMMITTEE REPORT OF REFERRED BILLS
COMMITTEE--(S) BUSINESS & INDUSTRY

RUN TIME 08:32
RUN DATE.... 04/22/87

CHAIRMAN--SEN. ALLEN C. KOLSTAD
NORMAL SCHEDULE==> SITE: ROOM 410

DAYS: MON THRU FRI TIME: 10:00 A.M.

SECRETARY-CAROLYN LINDEN

BILL NO	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0122 PECK, RAY	1/22	1/27	1/27/87 CHANGING STATE BANKING BOARD MEETING DATES AND BANK EXAMINATION FREQUENCY	CONCUR		1/27/87
HB0133 WILLIAMS, MEL	2/02	2/20	2/20/87 MAKE CONSISTENT CERTAIN TERMS IN MONTANA ALCOHOLIC BEVERAGE CODE	CONCUR		2/20/87
HB0165 BROWN, JAN	3/02	3/12	3/12/87 PHARMACISTS NOT LIABLE FOR PEER REVIEW	CONCUR		3/12/87
HB0177 JONES, TOM	1/26	2/05	2/5/87 SMALL TRACT FINANCING ACT TRUSTEE QUALIFICATIONS REVISION	CONCUR		2/5/87
HB0179 JONES, TOM	2/02	3/16	3/16/87; 3/17/87; 3/20/87 3/26/87 PROHIBITING ACQUISITION OF INSURED BANKS BY CERTAIN COMPANIES	CONCUR AS AMENDED		3/26/87
HB0180 FRITZ, HARRY	2/13	3/13	3/13/87 ALLOW AGENCY TO BUY SUPPLIES USING ADVERTISED/CATALOG PRICES IN SOME CASES	CONCUR		3/13/87
HB0189 PAVLOVICH, BOB	2/23	3/05	3/5/87 TRANSFER ADMINISTRATION VIDEO POKER MACHINE LAW FROM REVENUE TO COMMERCE	CONCUR		3/5/87
HB0194 MILES, JOAN	1/26	2/06	2/6/87 ABOLISH DHES APPROVAL OF CERTAIN ALCOHOLIC BEVERAGES SALES	CONCUR		2/6/87
HB0203 SPAETH, GARY	1/26	2/11	2/11/87 STATE AUDITOR DISCRETION TO WAIVE INDEMNITY BOND FOR DUPLICATE WARRANT	CONCUR		2/11/87
HB0206 MCCORMICK, MAC	2/10	3/04	3/4/87 ALLOW VIDEO DRAW POKER MACHINE TO ACCEPT CASH IN THE FORM OF BILLS	CONCUR		3/4/87
HB0218 BRANDEWIE, RAY	1/30	2/05	2/5/87 SHOWING PROOF OF OWNERSHIP OF FOREST PRODUCTS TO LAW ENFORCEMENT OFFICER	CONCUR		2/5/87

MINUTES OF THE MEETING
BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

February 5, 1987

The fifteenth meeting of the Business and Industry Committee was called to order by Chairman Allen Kolstad on Thursday, February 5, 1987 in Room 410 of the Capitol at 10 a.m.

ROLL CALL: All committee members were present. Vice-Chairman Ted Neuman assumed the chair in order that Chairman Kolstad could present his bill.

CONSIDERATION OF SENATE BILL NO. 245: Sen. Allen C. Kolstad, Senate District 7, chief sponsor of SB 245, said the bill requires the computation of finance charges on retail charge account agreements to be based on the average balance of the account rather than on the ending balance. Sen. Kolstad explained that in the credit card industry, the most common method of calculating interest is on the average daily balance, because it is the most equitable for both the consumer and the creditor. Under this method, the interest is calculated by applying the rate of interest to the average balance outstanding during that period after deducting any purchases made by the card user during the previous 30 days. Therefore, the consumer pays for the use of the funds for the period they were used and the creditor receives payment for the funds for the period they were used. However, under the present credit card law in Montana, the interest must be computed by applying the interest rate to the ending balance of the period after deducting that balance and any charges made by the card user during the previous 30 days. Currently, there is only one Montana company that issues Mastercard and that is the Bank of Montana System. This bill puts the Bank of Montana System on a par with the other bank card issuers. Since the Montana Bank System is the only bank card company that is required to compute this interest on the ending balance, we are asking that it be possible for them to be on equal footing with the other card companies. (EXHIBIT 1)

PROPONENTS:

Ed Lamb, Executive Vice-President, Bank of Montana System, Great Falls, spoke in favor of SB 245. (EXHIBIT 2)

George Allen, representing the Montana Retail Association, Helena, urged the committee's support of SB 245 and asked to have the words "daily balance" added on page 4, line 2, as it actually does not change the meaning of the bill. (EXHIBIT 3)

Sen. Thayer asked if Sen. Kolstad wanted an effective date on SB 245 and Sen. Kolstad answered that it would be good to have the effective date on passage and approval but he hadn't discussed this with the people who asked him to introduce the bill. He said that he will probably suggest this as a possible amendment.

There being no further questions from the committee, Sen. Kolstad closed his presentation of SB 245 by stating that this is strictly a fairness issue and it is because of the competitive disadvantage caused by this Montana law that the companies are finding it very difficult to compete here. He feels that ultimately, the bank card company must either discontinue its credit card division in this state, or move somewhere else if the law isn't changed.

CONSIDERATION OF HOUSE BILL NO. 177: Rep. Tom Jones, House District 4, Kalispell, chief sponsor of the bill, said the bill does one simple thing; on line 19 it deletes the words "insurance or abstract company" and replaces it with the more popular language, "insurer or title insurance agents or agency".

PROPONENTS:

Gene Phillips, Kalispell, representing the Montana Land Title Association, stated they support the bill as it brings the language into conformity with the bill passed two years ago with respect to title insurance companies operating in the state of Montana and urged the committee's support of HB 177.

OPPONENTS: There were no opponents.

DISCUSSION OF HOUSE BILL NO. 177: Questions were then called from the committee members. There were none.

DISPOSITION OF HOUSE BILL NO. 177: Sen. Thayer MOVED HB 177 BE CONCURRED IN. The Motion was seconded by Sen. Meyer and CARRIED UNANIMOUSLY.

CONSIDERATION OF HOUSE BILL NO. 218: Rep. Ray Brandewie, House District 49, Bigfork, chief sponsor of the bill, stated that it amends present law. At the present time, it is unlawful to carry or have in your possession more than five Christmas trees without being able to show proof of ownership. First of all, Rep. Brandewie told the committee that he is in the tree business and does have a vested interest in the bill; but he was carrying this bill at the request of the Flathead County Attorney's office. He explained that he grows plantation Christmas trees, and the primary problem is the loss of wild Christmas trees and boughs off State and National Forest land as well as from private land. It is a large problem in Flathead, Lake and Lincoln Counties and probably other areas where public land exists or plantation

STANDING COMMITTEE REPORT

February 5, 1987

MR. PRESIDENT

We, your committee on BUSINESS & INDUSTRY

having had under consideration HOUSE BILL No. 177

Third reading copy (blue color)

JONES (KOLSTAD)

SMALL TRACT FINANCING ACT TRUSTEE QUALIFICATIONS REVISION

Respectfully report as follows: That HOUSE BILL No. 177

BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

SENATOR KOLSTAD, Chairman.

DAILY ROLL CALL

BUSINESS & LABOR COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date January 20, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. LES KITSELMAN, CHAIRMAN	✓		
REP. FRED THOMAS, VICE-CHAIRMAN	✓		
REP. BOB BACHINI	✓		
REP. RAY BRANDEWIE	✓		
REP. JAN BROWN	✓		
REP. BEN COHEN	✓		
REP. JERRY DRISCOLL	✓		
REP. WILLIAM GLASER	✓		
REP. LARRY GRINDE	✓		
REP. STELLA JEAN HANSEN	✓		
REP. TOM JONES	✓		
REP. LLOYD MCCORMICK	✓		
REP. GERALD NISBET	✓		
REP. BOB PAVLOVICH	✓		
REP. BRUCE SIMON	✓		
REP. CLYDE SMITH	✓		
REP. CHARLES SWYSGOOD	✓		
REP. NORM WALLIN	✓		

CS-30

HOUSE BILL NO. 177

INTRODUCED BY JONES, C. SMITH

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE QUALIFICATIONS OF TRUSTEES UNDER THE SMALL TRACT FINANCING ACT OF MONTANA; AMENDING SECTION 71-1-306, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 71-1-306, MCA, is amended to read:

"71-1-306. Qualifications of trustee -- successor trustee. (1) The trustee of a trust indenture under this part shall be:

(a) an attorney who is licensed to practice law in Montana;

(b) a bank, trust company, or savings and loan association authorized to do business in Montana under the laws of Montana or the United States; or

(c) a title ~~insurance or abstract company~~ insurer or title insurance agent or agency authorized to do business in Montana under the laws of Montana.

(2) The beneficiary may appoint a successor trustee at any time by filing for record, in the office of the clerk and recorder of each county in which the trust property or some part thereof is situated, a substitution of trustee. The substitution shall identify the trust indenture by stating the names of the original parties thereto and the date of recordation and the book and page where the same is recorded, shall state the name and mailing address of the new trustee, and shall be executed and acknowledged by all of the beneficiaries designated in the trust indenture or their successors in interest. From the time the substitution is filed for record, the new trustee shall be vested with all the power, duties, authority, and title of the trustee named in the trust indenture and of any successor trustee."

NEW SECTION. Section 2. Effective date. This act is effective on passage and approval.

-End-